

A Status Report on Holocaust-Era Insurance Claims

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Washington State Insurance Commissioner

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Executive Summary

This report reviews the international process created to resolve Holocaust-era insurance claims. After almost six decades, moral and legal claims against European insurers have been reasserted by survivors and heirs of victims. Since 1997, new revelations about the failure to honor insurance contracts and the looting of insurance assets by the Nazis have been brought to the public's attention.

Pressure from class action lawsuits, American insurance regulators and others led to the creation of the International Commission on Holocaust-era Insurance Claims (ICHEIC) in 1998. ICHEIC has conducted outreach in the U.S. and abroad, worked on developing standards to resolve claims, to audit companies, and to make public policyholder names.

Disappointing Lack of Progress In Resolving Holocaust-era Claims

Almost halfway into the two-year worldwide Holocaust-era insurance claims process, results have been disappointing.

- Seventy percent of well-documented “fast-track” claims presented have been denied and of the regular claims submitted, 95% have been rejected.
- ICHEIC’s own study of the high denial rate has found companies are reinterpreting “relaxed standards of proof”, and in some cases are ignoring ICHEIC rules, placing the integrity of the claims process in jeopardy. These problems require immediate attention.
- Many claims remain on indefinite “hold,” due to ICHEIC’s failure to adopt claims-handling standards for German companies and other unresolved issues. A quarter of “fast-track” claims and about 70% of regular claims are currently suspended almost one full year into the process.
- German insurers now seek special advantages that would reduce liability for unpaid claims, exempt companies from independent audits and limit publication of names.

Insurers Continue to Resist Publication of Policyholder Names That Could Uncover Additional Valid Claims

Success in locating all valid claims depends on publication of Holocaust-era policyholder names. Without this information, thousands of potential claimants will never learn of the existence of a policy and their right to recover family assets.

Delay or evasion of the obligation to publish unpaid Holocaust-era policyholder names can suppress claims. ICHEIC has only published 9,200 names that insurers claim are those of unpaid Holocaust victims, yet millions more names are in the possession of Holocaust-era insurers which may constitute valid claims that will remain unpaid if they never see the light of day.

“Legal Peace” for Companies Offered Before Claims Process Delivers Results

To limit exposure to lawsuits and achieve “legal peace,” German and other European companies are now asking the U.S. Government to support dismissal of any Holocaust-related lawsuits against them. This is being pursued even before a just, credible and accountable insurance claims process has been implemented. At the same time, German insurers are seeking more favorable claims standards than other ICHEIC members. In response, Congressional action on behalf of survivors’ rights is becoming increasingly likely.

Background

Since the end of World War II, thousands of insurance policies – today estimated by analysts to be worth billions of dollars – have laid hidden, unaccounted for and unpaid to their rightful owners, the survivors and heirs of victims of the Holocaust.

Life, property and other forms of insurance were a common asset in pre-war Europe. During the Holocaust, the Nazis and their accomplices seized vast amounts of Jewish property throughout Europe, including insurance policies. In Germany, Austria and occupied countries the authorities confiscated thousands of life policies and cashed them in with the cooperation of private insurers. In many other cases, policies simply lapsed when Jews and others were deported or died in ghettos and camps.

When claims were made after the war by some survivors or heirs, they were frequently denied. Companies established onerous burdens of proof, such as requirements for non-existent death certificates, or claimed the assets no longer existed due to the war or political changes after the war. Little or no effort was made by companies to seek out legal heirs of unclaimed policies. Some claimants endured repeated denials for over 50 years.

Early in 1997 a class action suit was filed on behalf of Holocaust survivors and their heirs charging that major European insurance companies refused to honor life insurance policies purchased prior to World War II by Jews and other victims of Nazi persecution. At the same time, advocates issued calls for European insurers to disclose information from their records, and to fulfill their obligations to Holocaust survivors and their families.

As part of the effort to restore justice to the victims of the Holocaust, the National Association of Insurance Commissioners (NAIC) formed a multi-state working group chaired by Washington State Insurance Commissioner Deborah Senn. The Working Group held hearings across the country to hear testimony by survivors and their families. At these sessions, public figures and private citizens alike called for a thorough accounting of insurance company actions during the Holocaust period and the honoring of valid life and property claims by survivors and their families. Many survivors brought actual pre-war policies to the hearings and provided evidence of past denials of claims by leading insurers in Europe.

These disclosures led to the creation of the International Commission on Holocaust-era Insurance Claims (ICHEIC) in August of 1998. The ICHEIC is a private, non-profit association established to resolve unpaid Holocaust-era insurance claims. Charter members include American and European insurance regulators, non-governmental Jewish organizations and five major European insurers: Allianz, Generali, AXA, Winterthur and Zurich, all of which have major stakes in the U.S. insurance market. ICHEIC is chaired by former Secretary of State Lawrence Eagleburger.

Status of ICHEIC Claims Process

Since its founding, the ICHEIC has labored to develop a set of standards to evaluate claims, calculate the current value of policies, and oversee company compliance with the claims process. Although some real progress has been made, the results almost a year into the claims process have been disappointing. ICHEIC has not been able to agree on some basic issues including how to handle policies sold by German companies, the publication of Holocaust-era policyholder lists in the possession of companies, responsibilities of companies for all liabilities of their subsidiaries, the commencement of an appeals process, or how to account for non-life insurance claims.

There are two “tracks” to address claims against companies participating in the ICHEIC:

FAST-TRACK CLAIMS

The ICHEIC announced in June 1999 that it would process on an expedited basis well-documented claims already in the hands of U.S. regulators. Almost 1000 of these “fast-track” claims were submitted by regulators and the Israeli government by September 1999. With a few exceptions, these claims were for documented life policies with a known company.

The fast-track process has resulted in a high denial rate and a significant numbers of claims placed on hold due to the failure of ICHEIC to adopt procedures to handle and value claims against German companies.

Status of Fast-Track Claims (as of 5 December 2000)

Claims submitted by state regulators and the Israeli government in September 1999 as part of an expedited claims procedure.

Total claims submitted	908														
Claims Pending since 1999	219	25%													
Determinations made	689	75%													
<table border="1"> <thead> <tr> <th colspan="4">Breakdown of Determinations</th></tr> </thead> <tbody> <tr> <td>Claims Denied</td><td>473</td><td>69%</td><td></td></tr> <tr> <td>Offers Made</td><td>216</td><td>31%</td><td></td></tr> </tbody> </table>				Breakdown of Determinations				Claims Denied	473	69%		Offers Made	216	31%	
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- There is a 70% denial rate for processed claims.
- This high denial rate has triggered an internal ICHEIC analysis which identified systematic problems in how companies interpret ICHEIC rules & standards.
- 1 in 4 claims dating from 1999 are still not decided due to disputed issues.

MAIN TRACK CLAIMS

In February 2000, ICHEIC launched its two-year worldwide claims process, supported by an advertising campaign and toll-free information hotline in the U.S., Europe, Israel and other countries. To date, ICHEIC has received about 180,000 calls or requests for information. All applications must be filed with ICHEIC by February 15, 2002.

The processing of claims has proceeded slowly. After ten months, less than 1% of the claims have resulted in offers. Almost 60% of claims are being held up at the initial processing stage primarily because of disputes with companies.

Status of Main-Track Claims (as of 30 November 2000)

Claims received worldwide since commencement of regular claims process in February 2000

Total insurance claims received worldwide 60219

In process 25%

Distributed to insurers for investigation 16%

On hold - "awaiting issue resolution" 59%

Breakdown of Claims Distributed

Denials	1933	20%
Offers made	90	1%
Still under investigation	<u>7779</u>	79%
Total	9,802	

- Denied claims so far outnumber offers more than 20 to 1.
- Over 80% of claims have not yet been distributed to companies for investigation.
- Claims "on hold" mostly reflect several disputed issues, the unresolved status of German policies, and claims against companies not willing to join ICHEIC.

WASHINGTON STATE CLAIMS

Status of Washington State Claims Submitted to ICHEIC (as of December 2000)

Claimants	106
Potential policies	429
<u>Status</u>	
Under investigation by companies (45)	44%
Denied (5)	5%
Invalid (5)	5%
Incomplete/Still Processing (28)	27%
Non-ICHEIC company named (19)	19%
Claims Paid (directly through companies, not ICHEIC)	2
Claims to be Submitted	309

As a result of aggressive, ongoing outreach efforts, Washington State has collected and submitted to ICHEIC among the largest number of claims of all the states. A total of 738 potential claims will be submitted for processing and investigation by early 2001.

The Disturbing Pattern of Rejections

In the ICHEIC process, the companies directly handle inquiries and make decisions on whether to accept or deny a claim. High denial rates so far result from companies reinterpreting ICHEIC's "relaxed standards of proof" that are supposed to be the basis of fair resolution of claims resulting from the unique circumstances of the Holocaust. It is also becoming apparent that in some cases companies are ignoring ICHEIC rules, placing the integrity of the claims process in jeopardy. Audits of company actions have not yet been completed and approved, casting further doubt on the validity of the process.

Independent evaluations and ICHEIC's own internal analysis of claims denials point out several problem areas that need immediate correction.

"Previously Paid" Policies

Companies continue to deny documented claims because they assume the policies were "paid" out during the Nazi era. This assumption is based not on hard evidence found in company records but on the absence of any evidence to the contrary. Thus, the companies are reinterpreting "relaxed standards" to place the burden of proof on claimants, not the companies.

Examples

- A documented claim submitted with an actual policy number was denied by the German insurer Allianz because it was not found in their "Reserve Register," a listing of what the company alleges to be all matured life policies that were not paid. Because it does not appear in the Reserve Register, Allianz concluded that the policy was cancelled or previously paid out. This policy likely does not appear on the Reserve Register because it was confiscated, paid out to the Nazis, and the file closed. The rightful owners never received any proceeds.
- Another policy was verified by Allianz but was denied based on the fact that there was a "partial payment" of the cash value in the late 1930s, and it didn't appear on the "Reserve Register" or another Register of policies in force in 1941. The timing indicates that the policy was likely cashed out under duress just prior to the war, placed in a Nazi-controlled "blocked account" and not available to the family trying to flee Germany.

In addition to this troubling standard of proof asserted by Allianz and others -- the absence of the policy in various "Registers" -- these kinds of denials appear to conflict with ICHEIC rules. On September 29, 2000, in a Decision Memorandum Chairman Eagleburger stated regarding confiscated policies: "Valid claims on confiscated policies should be compensated in full like any other valid claim."

And on blocked accounts, Eagleburger states, "Payments on blocked accounts should be handled under the general humanitarian section of the MOU [Memorandum of Understanding establishing the ICHEIC]."

Absence of Company Records

Companies have frequently denied claims based on lack of evidence in their files verifying the existence of a policy, despite the fact that the claimant has documented the existence of a policy.

Examples

- A policy issued by the Italian insurer RAS was verified by the company in 1947, including confirmation that the policy was confiscated during the war. The claim was denied then, and again in the past year, based on lack of evidence in the company's files "establishing a contractual relationship." In public testimony before the Washington State Insurance Commissioner in January 2000, a representative of Allianz, parent company of RAS, stated that files dealing with pre-war policies in the company's possession comprise just two filing cabinets.
- A claimant submitted documents showing an official Czech government declaration from 1945 listing a policy issued by the Italian insurer Generali, including details but no policy number. Generali has denied the claim based on an absence of records in their possession.

These denials may violate both the spirit and letter of "relaxed standards." Worse, such denials are issued inconsistently. In other recent decisions on ICHEIC claims, these same companies have made offers even in the absence of evidence in their files.

Administrative Problems with ICHEIC Claims Process

Documented policies are being mishandled or rejected by ICHEIC's claims processor at the initial stages even before they reach the companies for investigation.

- Claimants have received summary denials without adequate explanation. In some cases, requests that ICHEIC document the basis for a denial have not been honored. Those who have received a denial have no recourse to appeal at present.
- Large numbers of claims have already been invalidated because the original policyholder is considered to be from a geographic area of Europe where private insurance was not historically sold or legally allowed, such as territories of the Former Soviet Union. Decisions on eligibility of these claims is based on historic maps whose accuracy has not been verified. At least one advisor to ICHEIC has suggested the maps are inaccurate, raising the possibility that an unknown number of claims are being wrongly invalidated.
- In addition, serious backlogs have plagued the claims process, resulting in many claims being lost, unacknowledged or delayed. As a result, justice is delayed further.
- Claimants who have received denials have not yet been informed of an official appeals process over a year after denials began to be issued.

Publication of Names

The single most important way to ensure the claims process will work is through the publication of Holocaust-era policyholder names. Survivors emerged from camps and hiding places with nothing in their hands. For many families, only child survivors remained at war's end, and they lacked knowledge of family assets.

Today, many families with rightful insurance claims are simply unaware of the existence of a policy. Most potential claimants have no documentation. If comprehensive policyholder lists are not published, families will not know they have a claim.

Publication of Holocaust-Era Policyholder Names on ICHEIC website (www.ICHEIC.org)

<u>Companies</u>	<u>Names Reported in Company Possession</u>	<u>Names Published on ICHEIC Website</u>
Allianz Lebens (and Vereinte Leben)	1.5 million policy files 148,000 "Large" policies	308
RAS (Reunione Adriatica di Sicurtà)	unknown	1
AXA		
Colonia Nordstern (Germany)	680,000	191
French companies	540,000	0
Generali	List of 90,000 policies in in force in Dec. 1937	8,740
Winterthur	Approx. 65,000 policies in force in 1940	4
Zurich Group	22,000	20
<u>Other Sources</u>		
Vienna State Archives		8,810
Dutch List (Dutch Sjoa Foundation)		759
Various German archives		21,279
Total Names currently on ICHEIC website		Approx. 40,000

Successful claims will rest in part on locating policy records in insurance company archives. Millions of such records exist, but insurers have objected to releasing their policyholder lists, raised privacy concerns or engaged in administrative delays to avoid publication. It serves the purposes of the insurers to resist publication of names which would inevitably expand the number of claimants. In short, if you suppress the names, you suppress the claims.

What's Available on ICHEIC website (www.ICHEIC.org)

The public currently has access to a list of about 40,000 names on the ICHEIC website (see table on previous page). Three quarters of these come not from the companies but from public archives in Germany and Austria where ICHEIC investigators examined thousands of Nazi-era files, one by one, to discover policyholder names and details of confiscated policies. The companies have voluntarily provided to ICHEIC only 9200 names of “unpaid” policyholders they assert are verified Holocaust victims.

In addition, the public can access Holocaust-era lists acquired by the Washington State Insurance Commissioner and other sources that provide information about potential insurance claims:

Lists Available on website of WA State Office of Insurance Commissioner (www.insurance.wa.gov)

- 2,301 names of policyholders from throughout Europe
- 17 French policyholders of Holocaust-era insurance policies with RAS
- 759 unclaimed insurance policies issued by Dutch insurance companies prior to WWII.
- 1,207 unpaid Holocaust-era policies of a British insurance company that did business in pre-World War II Poland.

Lists Available on LivingHeirs website (www.livingheirs.com) - a joint project of Simon Wiesenthal Center, Risk International, Avotaynu, and Ancestry.com

- 2500 insurance policy records obtained in German archives
- 5000 confiscation files obtained in Italian archives
- 52,000 name index from confiscation files in Vienna State archives
- Additional German names can be researched for a service fee

Publication of Names:

An Essential Tool for the Public

**An example of how publication of
Holocaust-era policyholder lists can aid
claimants who lack documentation,
company name or other details of
insurance policies.**

Step 1

Initial claim information submitted
by son of Austrian policyholder.
Claim based solely on recollection
of insurance coverage.

Do you have any recollection of
include dowry insurance (common
verage, life insurance, or types

LIFE INSURANCE, B...

1. What is the name of the Holocaust era victim/family?

1. VICTOR AND HALDA FIEDLER

2. MARIE AND BERTHA SCHALLINGER

2. What city did they live in and what was their address in Europe prior to
internment or escape?

1. WAGHINGERSTRASSE 200, VIENNA, AUSTRIA

2. ? Vienna, Austria

3. What is their current phone number?

1. Deceased

2. Deceased

4. Were there other relatives in that area at that time? Can you list any of them?

ERICH GOLOSFAUS - ...

EDWARD BELLER - ...

LEON SHEARN - ...

5. What was the family business/occupation?

TAILORING SUPPLIES

6. Where was the business located and do you know the address?

1. LANGE GASSE 63, Vienna, Austria BRUNNER FIEDLER

2. Retired bank employee

7. Do you have any recollection of insurance from that period? (Note: This might
include dowry insurance (common among families with daughters), property
coverage, life insurance, or types of business coverage):

LIFE INSURANCE, BUSINESS INSURANCE

8. Do you or other family members remember the names of insurance companies
from that era that you believe might have provided coverage?

No

9. Did you or another family member ever file a claim in connection with this
insurance coverage or make an inquiry with a specific company about this
coverage? Which companies?

No

Step 2

Name of policyholder
found in index of Nazi-era
confiscation files, Austrian
State Archives, Vienna.

Fiderer	Chaim Mordche	25.01.1897
Fieck	Otto Wilhelm	07.07.1876
Fiedler	Otto	07.01.1893
Fiedler	Viktor	17.02.1891
Fiehl	Elisabeth Renate	31.08.1925
Fiehl	Hans Georg	29.04.1929

Familienname	Vorname	geboren	Zahl	Familienname	Vorname	geboren	Zahl
*Farber	Arnold	17.05.1886	4918	Feuer	Rosa	13.01.1896	32468
Farber	David	19.05.1865	795	Feuer	Sali	20.12.1895	6776
Farber	Maximilian	19.07.1868	793	Feuer	Sara Riva	17.09.1873	21865
Farber	Rosa	06.04.1894	794	Feuer	Sigmund	02.06.1902	16705
Ferdia	Alisa	28.12.1868	21893	Feuer	Simon	01.05.1897	8051
Ferdia	Arnold	08.01.1867	43765	Feuer	Sind Moses	08.01.1877	30070
Ferdia	Ignaz	29.03.1879	3845	Feuer	Wilhelm	07.08.1907	21864
Ferdia	Julus	03.09.1862	28290	Feuerberg	Josely Josef	01.03.1875	7084
Ferdia	Madride	18.05.1870	31714	Feuerberg	Klara	21.07.1876	46603
Ferenczi	Oskar	25.08.1869	35827	Feuerberg	Nathan	01.06.1874	21865
Ferri	Enil	01.09.1894	2783	Feuerberg	Sara	12.10.1881	15047
Ferri	Karl	09.12.1879	24522	Feuerberg	Ignaz	08.08.1907	32577
Ferri	Karl	14.04.1891	785	Feuerberg	Natalie	14.08.1907	26711
Ferri	Rogine	19.01.1894	786	Feuerberg	Elio Wolf	19.06.1885	26508
Fernandez-Diaz	Maxim	26.04.1890	80254	Feuerberg	Johanna	07.04.1895	10117
*Ferna	Eugen	28.05.1883	45023	Feuerberg	Abraham	08.07.1880	10237
Ferna	Ida	09.05.1894	45020	*Feuerstein	Adolf		60266
Ferneboch	Ludwig	07.07.1862	27644	Feuerstein	Alfred		63069
Fernst	Ida	04.10.1883	11845	Feuerstein	Anna	04.05.1905	46982
Fernst	Ida	13.09.1877	781	Feuerstein	Bruno	16.01.1884	791
Fernst	Koloman	12.03.1862	12038	Feuerstein	David	21.12.1895	15823
Ferro	Marco	28.12.1894	23823	*Feuerstein	Emmanuel	25.12.1878	37290
Ferstel	Marie	28.02.1898	787	Feuerstein	Fanny	03.05.1910	27417
Ferstel	Melanie	26.03.1871	21435	Feuerstein	Franz	27.08.1893	45435
Fenster	Ulrich	26.03.1881	23857	Feuerstein	Franziska Emma	27.01.1871	35967
Fenig	Wilhelm	21.01.1901	37376	Feuerstein	Hilda	12.01.1915	24671
Fessel	Hannah	11.08.1902	42203	Feuerstein	Isak	04.05.1904	24627
Fessler	Alfred	24.09.1893	5250	Feuerstein	Josef	19.06.1890	33075
Fessler	Anna	17.11.1890	788	Feuerstein	Leo	14.03.1902	14116
Fessler	Ernestine	10.11.1891	14214	Feuerstein	Regina	05.11.1898	24670
Fessler	Franz	04.02.1895	789	Feuerstein	Regina	03.01.1887	792
Fessler	Franz	30.06.1899	44600	*Feuerstein	Rosa	15.12.1890	37292
*Fessler	Franz	17.03.1903	40603	Feuerstein	Sophie	08.10.1891	30419
*Fessler	Greta	18.09.1891	40604	Feuerstein	Therese	14.01.1876	27569
Fessler	Ida	29.07.1895	1000	Feuerwerk	Jakob Moses	11.07.1860	41490
				Feuerwerk	Sali	28.08.1875	30730
				Feuerzeug	Wilhelm	03.08.1889	40949
				Feynd	Robert	25.05.1891	37396
				Feyndel	Bernard	27.11.1897	19789
				Feyer	Bruno	21.04.1896	16238
				Feyer	Kurt	04.11.1909	27383
				Feyerlag	Leon	28.09.1906	40943
				Fiala	Friedrich	13.03.1905	19760
				Fiala	Hedwig	27.07.1903	19769
				Fiala	Wilhelm	23.06.1878	19769
				Fiala	Ernst	12.07.1909	23793
				Fiala	Ernst Lofar	18.03.1880	40167
				Fiala	Friedrich	20.02.1893	10995
				Fiala	Levi	20.05.1860	38341
				Fiala	Leopold	07.04.1878	29904
				Fiala	Margarete	09.10.1896	15822
				Fiala	Marie	11.02.1891	15809
				*Fiala	Max	06.07.1887	31826
				*Fiala	Rosa	28.01.1894	31825
				Fichman	Moritz	30.10.1879	19962
				Fichmann	Isak	20.11.1884	14311
				Fichmann	Leon	20.04.1877	7312
				Fichmann	Malvine	06.11.1907	19925
				Fichlinger	Josef	29.03.1889	24498
				Fichlinger	Julia	12.01.1894	33062
				Ficht	Ferdinand	10.01.1894	3854
				Ficht	Isabella	23.04.1901	3853
				Fichmann	Friederike	08.09.1905	20846
				Fidelhar	Rosa	10.05.1872	35741
				Fideler	Benzion	07.02.1878	11549
				Fideler	Chaim Mordche	25.01.1897	30148
				Fieck	Otto Wilhelm	07.07.1876	32464
				Fieck	Carl	07.01.1893	44195
				Fiedler	Viktor	17.02.1891	44195
				Fiehl	Elisabeth Renate	31.08.1925	32493
				Fiehl	Hans Georg	29.04.1929	32567
				Fiehl	Johanna	11.10.1906	45731
				Fiehl	Maximilian	27.03.1890	43778
				Fiel	Carl	29.03.1871	10091
				Figdor	Alfred	15.10.1893	4693
				Figdor	Arthur		65622

Step 3

1939 Nazi “Seizure Order” found in archive confirms existence and value of looted insurance policy.

Gemeinde Wien Stadt, Versicherungs-
Anstalt, ~~Veranstaltung~~ Tischkufen 8.
(Finanz-Bezeichnung des Schadensendes)

**Company identified as
“Wiener Städtische” today one of
Austria’s largest private insurers**

dem Krieg der Pfändungsverfügung entstehen sind			
Kosten der Zwangsvollstreckung, die durch den Krieg der Pfändungs- verfügung entstehen		12 11	
Insgesamt	1527	61	

Cash value seized: 1527 RM

[illegible]

State Legislation

Since 1998, several states have taken actions on behalf of survivors and heirs with unpaid insurance claims. State laws addressing this problem are summarized below:

Washington State

The “Holocaust Victims Insurance Relief Act” was unanimously passed by the Legislature and signed into law on April 15, 1999. Provisions of the law include:

- The establishment of a Holocaust Survivor Assistance Office to assist Holocaust survivors and/or the families and heirs of Holocaust victims recover proceeds from insurance policies and other assets that were improperly denied or processed;
- The creation of a Holocaust Insurance Company Registry containing company records of companies doing business in Washington State and their corporate parents relating to insurance policies and other pertinent information about victims of the Holocaust to determine if any of the carriers were involved in issuing or denying Holocaust-Era coverage thereby allowing their heirs, many of whom may not yet even be aware of this effort, to pursue potential claims;
- Extension until December 31, 2010 of the statute of limitations for insurance policies issued to Holocaust survivors and victims, enabling Holocaust survivors or victims’ families to sue insurance companies for failure to address those claims.

California

In 1998, California enacted a new law requiring the Department of Insurance to develop a comprehensive program to resolve the insurance claims of Holocaust victims, survivors and their heirs.

In 1999 the Holocaust Victim Insurance Relief Act was signed into law, requiring the State Insurance Commissioner to establish and maintain a registry regarding insurance policies issued in Europe to victims of the Holocaust during the Nazi period.

In April, 2000, on the eve of the registry provision taking effect, the law was challenged in federal court by specific affected insurers and the American Insurance Association. In a ruling in June 2000 in the Eastern District of California, an injunction was granted preventing enforcement of the statute. That decision has been appealed by the State and is currently being considered by the 9th Circuit.

Florida

The “Holocaust Victims Insurance Act” passed the legislature unanimously and was signed into law in May 1998. The Act provides several forms of relief for Holocaust victims, survivors and their families, and imposes severe penalties on companies that refuse to produce information relating to outstanding World War II-era insurance claims or otherwise cooperate with the Department of Insurance.

After Florida Insurance Commissioner Bill Nelson issued subpoenas to 40 insurance companies not fully in compliance with state law, requiring them to turn over information about Holocaust survivors' policies, the statute was challenged in federal court in November 1999 by Gerling, a German insurer with affiliated businesses in the United States. A ruling of the court in November 2000 overturned the state law. An appeal by the state is being considered.

Minnesota

The "Holocaust Victims Insurance Relief Act of 2000" was signed into law in April of 2000. The law requires the state's Commissioner of Commerce to assist Holocaust victims, heirs or beneficiaries in recovering proceeds from improperly denied or processed Holocaust-related insurance policies. It also authorizes the commissioner to establish and maintain a central registry containing records and information relating to insurance policies of Holocaust victims.

New York

The Holocaust Victim's Insurance statute, signed into law in July 1998, requires all insurance companies licensed in New York State to supply the state superintendent of insurance with essential information, including:

- The approximate number and total value of all unpaid insurance policies that have been issued to Holocaust victims;
 - Any attempts that have been made by the insurer over the years to locate beneficiaries of policies issued from 1920 to 1945 that might pertain to a Holocaust victim;
- the number of claims filed by Holocaust victims and whether or not payment was made on each of those claims.

Legal Peace

Companies facing lawsuits or Holocaust-era claims – insurance companies, banks, industrial enterprises and other businesses – are currently seeking protection from legal actions and sanctions in the U.S. The achievement of “legal peace” for the companies entails agreements with some plaintiffs to voluntarily drop pending suits and/or gaining the active support of the U.S. government in dismissing other suits against them. Such a role by the government contesting current and future suits by Holocaust survivors and heirs raises troubling issues.

U.S. Statement of Interest

As part of its commitments to support of the German Foundation "Remembrance, Responsibility and the Future", the U.S. Government signed an agreement with the German government in July 2000 concerning “legal peace.”¹ A key element of the agreement is the promise by the U.S. Government to assist in achieving “adequate legal security for German enterprises” in the U.S.

Specifically, the U.S. pledges to file in all pending and future cases against German companies, including German insurers or their affiliates, a “Statement of Interest” seeking dismissal of lawsuits on any valid legal ground. This Statement would reflect the view that it would be in the foreign policy interests of the United States for the Foundation to be the exclusive forum and remedy for the resolution of all asserted claims against German companies arising from their involvement with the Nazi regime and WWII. While the Statement would recommend dismissal, it would be up to the courts to make a final determination.

Similar Statements of Interest are currently being sought by Italian insurer Generali, Swiss insurers Winterthur and Zurich, and France’s AXA on the basis of their membership in the ICHEIC claims process, as well as Austrian insurers currently negotiating with the United States and other parties for a comprehensive settlement of Holocaust-related claims.

Actions by the U.S. in Support of Companies

The U.S. government has recently submitted a Statement of Interest in support of the voluntary dismissal of several class action suits. It has also filed briefs in several cases seeking dismissal of suits against German companies. Among these is a brief against suits by former slave laborers, and one in support of insurers’ suits against California’s

¹ The Foundation was created jointly by the German government and a consortium of leading German corporations to provide compensation to victims of Nazism, following extended negotiations with certain class action lawyers, non-governmental Jewish organizations, governments of Central and Eastern Europe, the U.S. and the State of Israel. Beginning in 2001, the Foundation plans to begin distribution of payments, through partner organizations, from a capital fund of DM 10 billion to qualified claimants, including individuals with Holocaust-era claims against German insurers. The German law establishing the Foundation pledges the payment of up to DM 300 million to the ICHEIC to compensate valid unpaid policies issued by German insurers or their affiliates, and an additional DM 350 million to ICHEIC’s humanitarian funds.

Holocaust Victims Insurance Relief Act currently pending in the Ninth Circuit Court of Appeals (see page 13).

Congressional Concerns

These government actions have triggered concerns among 46 Members of Congress, who wrote Chairman Eagleburger on September 29, 2000 to state their view that “companies should not be immunized without full accountability.” On October 25, 2000 a bipartisan group of eight Members of the South Florida delegation wrote to Attorney General Reno:

We believe that congressional action will be required to ensure meaningful recovery of insurance policies for Holocaust victims and heirs if the Courts agree with [the Government’s] position.... We are concerned that the Justice Department is enabling a non-transparent process controlled by insurance conglomerates with huge exposure and influence to become the *de facto* substitute for effective state regulation of insurance claims....

Linkage with ICHEIC Delayed

Although the German Foundation agreement mandates linkage between the German insurers and ICHEIC, the form of that linkage is not specified and has not yet been established, almost six months after the agreement was signed at a Berlin ceremony. This linkage is of crucial importance in determining if meaningful policyholder lists are published, how fairly claims against German companies will be treated, and what standards will be followed in conducting company audits or an appeals process.

German companies are currently opposed to adopting existing ICHEIC standards and practices. This position has resulted in an admonition in July 2000 from Deputy Secretary of Treasury Stuart Eizenstat:

It is critically important that all German insurance companies cooperate with the process established by ... ICHEIC. This includes publishing lists of unpaid insurance policies and subjecting themselves to audit. Unless German insurance companies make these lists available through ICHEIC, potential claimants cannot know their eligibility and the insurance companies will have failed to assume their moral responsibility. (Emphasis added)

Legal Peace for German Insurers On Hold

Based on agreements between parties to the German Foundation, lawyers representing survivors voluntarily sought to have their cases against German companies dismissed. In December 2000 Judge Michael Mukasey, Chief Judge of the U.S. District Court for the Southern District of New York ordered the dismissals. However, the judge explicitly recognized the need for German insurers to follow the same standards as other companies in resolving claims, allowing Nazi victims to restart their cases if the insurers do not quickly agree with ICHEIC on how to settle claims and publish policyholder names.

Conclusion

Despite the promise of an international process providing just, speedy and fair payment of unpaid Holocaust-era insurance policies, survivors and heirs of victims are today not much closer to resolving their decades-old claims. Survivors are becoming increasingly angry and frustrated with this process.

The ICHEIC process – emerging after over a year of difficult negotiations – was officially launched in February 2000. In addition, a streamlined “fast-track” procedure for well-documented claims was initiated in the summer of 1999. The results so far have been disappointing.

- The deck is stacked against claimants, resulting in the overwhelming denial of claims, even those which are well-documented.
- Companies are reinterpreting or disregarding rules designed to provide “relaxed standards of proof” for the many claims that lack documentation due to the realities of WWII and the Holocaust.
- The companies have not cooperated enough in publishing comprehensive lists of their Holocaust-era policyholders.
- Dozens of members of Congress have now raised questions about the high rate of claims denials, lack of accountability in the process, and the U.S. government’s support for granting of legal protection to the insurers against lawsuits and state regulatory action.

A just, speedy and fair claims process must be based on the following reasonable standards:

- All insurers must treat claims in a uniform manner and apply rules and procedures accurately and consistently.
- Claims which lack documentary support must be fairly evaluated.
- There must be an immediate release of comprehensive lists of unpaid policyholders, including those policies confiscated by the Nazis. Unless comprehensive lists of unpaid policyholders are released soon by the companies and brought into the light, this process cannot be called fair and accessible.
- “Legal Peace” should not be extended to companies -- either members or non-members of ICHEIC -- until fair claims procedures are fully implemented.
- The transparency of the ICHEIC process must be improved so the public understands how claims are handled and what standards the companies are being held to.